

AMENDED IN ASSEMBLY APRIL 29, 2003
AMENDED IN ASSEMBLY MARCH 26, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1026

Introduced by Assembly Members Levine and Runner

February 20, 2003

An act to add Section 1463.29 to the Penal Code, and to amend ~~Sections 23538, 23540, 23542, 23546, 23548, 23550, 23550.5, 23552, 23554, 23556, 23560, 23562, 23566, 23568, 23575, and 23578 of, and Sections 23575 and 23578 of, and~~ to add Section 23587 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1026, as amended, Levine. Vehicles: driving-under-the-influence: penalties.

(1) Existing law requires a court to consider a concentration of alcohol in the person's blood of 0.20% or more, by weight, or the refusal of the person to take a chemical test as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation, when a person is convicted of violating specified driving-under-the-influence provisions (DUI).

This bill would decrease the required blood-alcohol concentration from 0.20% to 0.15%. The bill would make conforming changes in other, related provisions of law.

(2) Existing law imposes various fines and terms of imprisonment for a violation of specified DUI provisions.

This bill would ~~increase the minimum and maximum fines for violations of specified DUI provisions.~~

~~The bill would require the court to double the fine that otherwise would have been imposed for certain DUI convictions, if the court finds that the defendant had a blood-alcohol concentration of 0.15%, or more, by weight at arrest. Because local prosecutors would be required to plead and prove the additional facts supporting the enhancement, the bill would impose additional duties upon those prosecutors and would thus establish a state-mandated local program.~~

~~The bill would require specified percentages of certain 50% of the amount of the doubled DUI fines to be kept separate and apart from any other fines and forfeitures and be distributed by the county treasurer, as soon as practicable after their receipt, with 50% to be deposited in a special county account that would be used only for the purposes of funding DUI programs licensed under existing law, as specified, and 50% to be deposited in the county's Maddy Emergency Medical Services (EMS) Fund, as specified, and expended only for the purposes authorized for the money in that fund. Because the bill thereby would impose additional duties upon the county treasurer, it would establish a state-mandated local program.~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Driving under the influence of alcohol or drugs, or a
- 4 combination of alcohol and drugs (DUI), continues to cause



1 devastating monetary and intangible damages to the residents of
2 California.

3 (b) The number of traffic fatalities related to alcohol in
4 California has increased three years in a row.

5 (c) Each year alcohol-related crashes in California cost the
6 public an estimated \$4 billion in monetary costs and \$7 billion in
7 quality of life losses.

8 (d) Repeat DUI offenders and those offenders with high
9 blood-alcohol concentrations (over 0.15 percent, by weight) are
10 much more likely to be involved in fatal crashes.

11 (e) Accordingly, it is the intent of the Legislature in enacting
12 this act to sanction with greater severity those offenders who are
13 most likely to cause the greatest damage and loss of life and to
14 reduce the number of alcohol-related crashes and fatalities in
15 California.

16 SEC. 2. Section 1463.29 is added to the Penal Code, to read:

17 1463.29. Notwithstanding Section 1463, all of the funds ~~that~~
18 ~~are subject to subdivisions (b) to (e), inclusive, that are subject to~~
19 ~~subdivision (b) of Section 23587 of the Vehicle Code shall be kept~~
20 separate and apart from any other fines and forfeitures and shall be
21 distributed by the county treasurer, as soon as practicable after
22 their receipt, as follows:

23 (a) Fifty percent shall be deposited in a special county account
24 that may be used only for the following purposes:

25 (1) In a county that does not have a driving-under-the-influence
26 program licensed under Section 11836 of the Health and Safety
27 Code, to fund the development, implementation, operation, and
28 maintenance of that program.

29 (2) In a county that has only an 18-month
30 driving-under-the-influence program, to fund the development,
31 implementation, operation, and maintenance of a 30-month
32 driving-under-the-influence program licensed under Section
33 11836 of the Health and Safety Code.

34 (b) Fifty percent shall be deposited in the county's Maddy
35 Emergency Medical Services (EMS) Fund established under
36 Section 1797.98a of the Health and Safety Code, and may be
37 expended only for the purposes authorized for the money in that
38 fund.

39 ~~SEC. 3. Section 23538 of the Vehicle Code is amended to~~
40 ~~read:~~

1 ~~23538. (a) Except as provided in subdivision (d), if the court~~
2 ~~grants probation to a person punished under Section 23536, in~~
3 ~~addition to the provisions of Section 23600 and any other terms~~
4 ~~and conditions imposed by the court, the court shall impose as a~~
5 ~~condition of probation that the person be subject to one of the~~
6 ~~following:~~

7 ~~(1) Be confined in the county jail for at least 48 hours but not~~
8 ~~more than six months, and pay a fine of at least three hundred~~
9 ~~ninety dollars (\$390), but not more than one thousand dollars~~
10 ~~(\$1,000). Except as provided in paragraph (2), the person's~~
11 ~~privilege to operate a motor vehicle shall be suspended by the~~
12 ~~department under paragraph (1) of subdivision (a) of Section~~
13 ~~13352. The court shall require the person to surrender the driver's~~
14 ~~license to the court in accordance with Section 13550.~~

15 ~~(2) Pay a fine of at least three hundred ninety dollars (\$390) but~~
16 ~~not more than one thousand dollars (\$1,000), and, if the person~~
17 ~~gives proof of financial responsibility, as defined in Section~~
18 ~~16430, to the department, have the privilege to operate a motor~~
19 ~~vehicle restricted for 90 days to necessary travel to and from that~~
20 ~~person's place of employment and to and from participation in a~~
21 ~~program described in subdivision (b). If driving a motor vehicle~~
22 ~~is necessary to perform the duties of the person's employment, the~~
23 ~~restriction also shall allow the person to drive to locations within~~
24 ~~the person's scope of employment. Whenever the driving privilege~~
25 ~~is restricted pursuant to this paragraph, the person shall maintain~~
26 ~~proof of financial responsibility for three years.~~

27 ~~(3) If the court elects to order a 90-day restriction as provided~~
28 ~~for in paragraph (2), the court shall order and advise the person of~~
29 ~~the following matters:~~

30 ~~(A) If the person's privilege to operate a motor vehicle is~~
31 ~~suspended under Section 13353.2, the court-ordered restriction~~
32 ~~does not allow the person to operate a motor vehicle unless the~~
33 ~~suspension under Section 13353.2 has either been served to~~
34 ~~completion or set aside, and his or her license has been reinstated.~~
35 ~~The restriction of the driver's license described in paragraph (2)~~
36 ~~shall commence upon the reinstatement of the privilege to operate~~
37 ~~a motor vehicle.~~

38 ~~(B) If a suspension was not imposed pursuant to Section~~
39 ~~13353.2, the person shall be advised by the court that the person's~~
40 ~~driving privilege may be suspended by the department pursuant to~~

1 ~~subdivision (c) of Section 13352.4 until proof of financial~~
2 ~~responsibility is provided.~~

3 ~~(b) In any county where the board of supervisors has approved,~~
4 ~~and the State Department of Alcohol and Drug Programs has~~
5 ~~licensed, a program or programs described in Section 11837.3 of~~
6 ~~the Health and Safety Code, the court shall also impose as a~~
7 ~~condition of probation that the driver shall enroll and participate~~
8 ~~in, and successfully complete a driving-under-the-influence~~
9 ~~program, licensed pursuant to Section 11836 of the Health and~~
10 ~~Safety Code, in the driver's county of residence or employment,~~
11 ~~as designated by the court.~~

12 ~~(1) The court shall refer a first offender whose blood alcohol~~
13 ~~concentration was less than 0.15 percent, by weight, to participate~~
14 ~~for at least three months or longer, as ordered by the court, in a~~
15 ~~licensed program that consists of at least 30 hours of program~~
16 ~~activities, including those education, group counseling, and~~
17 ~~individual interview sessions described in Chapter 9 (commencing~~
18 ~~with Section 11836) of Part 2 of Division 10.5 of the Health and~~
19 ~~Safety Code.~~

20 ~~(2) The court shall refer a first offender whose blood alcohol~~
21 ~~concentration was 0.15 percent or more, by weight, or who refused~~
22 ~~to take a chemical test, to participate for at least six months or~~
23 ~~longer, as ordered by the court, in a licensed program that consists~~
24 ~~of at least 45 hours of program activities, including those~~
25 ~~education, group counseling, and individual interview sessions~~
26 ~~described in Chapter 9 (commencing with Section 11836) of Part~~
27 ~~2 of Division 10.5 of the Health and Safety Code.~~

28 ~~(3) The court shall advise the person at the time of sentencing~~
29 ~~that the driving privilege shall not be restored until the person has~~
30 ~~provided proof satisfactory to the department of successful~~
31 ~~completion of a driving-under-the-influence program licensed~~
32 ~~pursuant to Section 11836 of the Health and Safety Code.~~

33 ~~(c) (1) The court shall revoke the person's probation pursuant~~
34 ~~to Section 23602, except for good cause shown, for the failure to~~
35 ~~enroll in, participate in, or complete a program specified in~~
36 ~~subdivision (b).~~

37 ~~(2) The court, in establishing reporting requirements, shall~~
38 ~~consult with the county alcohol program administrator. The~~
39 ~~county alcohol program administrator shall coordinate the~~
40 ~~reporting requirements with the department and with the State~~

1 Department of Alcohol and Drug Programs. That reporting shall
2 ensure that all persons who, after being ordered to attend and
3 complete a program, may be identified for either (A) failure to
4 enroll in, or failure to successfully complete, the program, or (B)
5 successful completion of the program as ordered.

6 (d) ~~Notwithstanding subdivision (a), if the offense occurred in~~
7 ~~a vehicle requiring a driver with a class A or class B driver's license~~
8 ~~or with an endorsement specified in Section 15278, the court shall~~
9 ~~upon conviction order the department to suspend the driver's~~
10 ~~privilege pursuant to paragraph (1) of subdivision (a) of Section~~
11 ~~13352.~~

12 SEC. 4. ~~Section 23540 of the Vehicle Code is amended to~~
13 ~~read:~~

14 23540. ~~If a person is convicted of a violation of Section 23152~~
15 ~~and the offense occurred within seven years of a separate violation~~
16 ~~of Section 23103, as specified in Section 23103.5, 23152, or~~
17 ~~23153, which resulted in a conviction, that person shall be~~
18 ~~punished by imprisonment in the county jail for not less than 90~~
19 ~~days nor more than one year and by a fine of not less than one~~
20 ~~thousand dollars (\$1,000) nor more than two thousand dollars~~
21 ~~(\$2,000). The person's privilege to operate a motor vehicle shall~~
22 ~~be suspended by the department under paragraph (3) of~~
23 ~~subdivision (a) of Section 13352. The court shall require the~~
24 ~~person to surrender the driver's license to the court in accordance~~
25 ~~with Section 13550.~~

26 SEC. 5. ~~Section 23542 of the Vehicle Code is amended to~~
27 ~~read:~~

28 23542. ~~If the court grants probation to a person punished~~
29 ~~under Section 23540, in addition to the provisions of Section~~
30 ~~23600 and any other terms and conditions imposed by the court,~~
31 ~~the court shall impose as conditions of probation that the person~~
32 ~~be subject to either subdivision (a) or (b), as follows:~~

33 (a) ~~Be confined in the county jail for at least 10 days but not~~
34 ~~more than one year, and pay a fine of at least one thousand dollars~~
35 ~~(\$1,000), but not more than two thousand dollars (\$2,000). The~~
36 ~~person's privilege to operate a motor vehicle shall be suspended by~~
37 ~~the department under paragraph (3) of subdivision (a) of Section~~
38 ~~13352. The court shall require the person to surrender the driver's~~
39 ~~license to the court in accordance with Section 13550.~~

40 (b) ~~All of the following:~~

1 ~~(1) Be confined in the county jail for at least 96 hours, but not~~
2 ~~more than one year. A sentence of 96 hours of confinement shall~~
3 ~~be served in two increments consisting of a continuous 48 hours~~
4 ~~each. The two 48-hour increments may be served~~
5 ~~nonconsecutively.~~

6 ~~(2) Pay a fine of at least one thousand dollars (\$1,000), but not~~
7 ~~more than two thousand dollars (\$2,000).~~

8 ~~(3) Have the privilege to operate a motor vehicle be restricted~~
9 ~~by the department under Section 13352.5. Until all conditions~~
10 ~~prescribed in this section are met, the person's driving privilege is~~
11 ~~suspended pursuant to paragraph (3) of subdivision (a) of Section~~
12 ~~13352. This paragraph does not apply if the offense occurred in a~~
13 ~~vehicle requiring a driver with a class A or class B driver's license~~
14 ~~or with an endorsement prescribed in Section 15278.~~

15 ~~(4) Either of the following:~~

16 ~~(A) Enroll and participate, for at least 18 months subsequent to~~
17 ~~the date of the underlying violation and in a manner satisfactory~~
18 ~~to the court, in a driving-under-the-influence program licensed~~
19 ~~pursuant to Section 11836 of the Health and Safety Code, as~~
20 ~~designated by the court. The person shall complete the entire~~
21 ~~program subsequent to, and shall not be given any credit for any~~
22 ~~program activities completed prior to, the date of the current~~
23 ~~violation. The program shall provide for persons who cannot~~
24 ~~afford the program fee pursuant to paragraph (2) of subdivision (b)~~
25 ~~of Section 11837.4 of the Health and Safety Code in order to~~
26 ~~enable those persons to participate.~~

27 ~~(B) Enroll and participate, for at least 30 months subsequent to~~
28 ~~the date of the underlying violation and in a manner satisfactory~~
29 ~~to the court, in a driving-under-the-influence program licensed~~
30 ~~pursuant to Section 11836 of the Health and Safety Code. The~~
31 ~~person shall complete the entire program subsequent to, and shall~~
32 ~~not be given any credit for any program activities completed prior~~
33 ~~to, the date of the current violation.~~

34 ~~(c) The court shall advise the person at the time of sentencing~~
35 ~~that the driving privilege shall not be restored until the person has~~
36 ~~provided proof satisfactory to the department of successful~~
37 ~~completion of a driving-under-the-influence program licensed~~
38 ~~pursuant to Section 11836 of the Health and Safety Code.~~

39 ~~SEC. 6. Section 23546 of the Vehicle Code is amended to~~
40 ~~read:~~

1 ~~23546. (a) If a person is convicted of a violation of Section~~
2 ~~23152 and the offense occurred within seven years of two separate~~
3 ~~violations of Section 23103, as specified in Section 23103.5,~~
4 ~~23152, or 23153, or any combination thereof, which resulted in~~
5 ~~convictions, that person shall be punished by imprisonment in the~~
6 ~~county jail for not less than 120 days nor more than one year and~~
7 ~~by a fine of not less than two thousand dollars (\$2,000) nor more~~
8 ~~than four thousand dollars (\$4,000). The person's privilege to~~
9 ~~operate a motor vehicle shall be revoked by the department as~~
10 ~~required in paragraph (5) of subdivision (a) of Section 13352. The~~
11 ~~court shall require the person to surrender his or her driver's~~
12 ~~license to the court in accordance with Section 13550.~~

13 ~~(b) A person convicted of a violation of Section 23152~~
14 ~~punishable under this section shall be designated as a habitual~~
15 ~~traffic offender for a period of three years, subsequent to the~~
16 ~~conviction. The person shall be advised of this designation~~
17 ~~pursuant to subdivision (b) of Section 13350.~~

18 ~~SEC. 7. Section 23548 of the Vehicle Code is amended to~~
19 ~~read:~~

20 ~~23548. (a) If the court grants probation to a person punished~~
21 ~~under Section 23546, in addition to the provisions of Section~~
22 ~~23600 and any other terms and conditions imposed by the court,~~
23 ~~the court shall impose as conditions of probation that the person~~
24 ~~be confined in the county jail for at least 120 days but not more than~~
25 ~~one year and pay a fine of at least two thousand dollars (\$2,000),~~
26 ~~but not more than four thousand dollars (\$4,000). The person's~~
27 ~~privilege to operate a motor vehicle shall be revoked by the~~
28 ~~department under paragraph (5) of subdivision (a) of Section~~
29 ~~13352. The court shall require the person to surrender the driver's~~
30 ~~license to the court in accordance with Section 13550.~~

31 ~~(b) In addition to subdivision (a), if the court grants probation~~
32 ~~to a person punished under Section 23546, the court may order as~~
33 ~~a condition of probation that the person participate, for at least 30~~
34 ~~months subsequent to the underlying conviction and in a manner~~
35 ~~satisfactory to the court, in a driving-under-the-influence program~~
36 ~~licensed pursuant to Section 11836 of the Health and Safety Code.~~
37 ~~In lieu of the minimum term of imprisonment specified in~~
38 ~~subdivision (a), the court shall impose as a condition of probation~~
39 ~~under this subdivision that the person be confined in the county jail~~
40 ~~for at least 30 days but not more than one year. The court may not~~

~~order the treatment prescribed by this subdivision unless the person makes a specific request and shows good cause for the order, whether or not the person has previously completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23542 or paragraph (4) of subdivision (b) of Section 23562. A person ordered to treatment pursuant to this subdivision shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of successful completion and report the completion to the department. A failure to obtain an order of satisfaction at the conclusion of the driving-under-the-influence program is a violation of probation. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition of probation required pursuant to this subdivision is a basis for reducing any other probation requirement in this section or Section 23600 or for avoiding the mandatory license revocation provisions of paragraph (5) of subdivision (a) of Section 13352.~~

~~(e) In addition to the provisions of Section 23600 and subdivision (a), if the court grants probation to a person punished under Section 23546 who has not previously completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23542 or paragraph (4) of subdivision (b) of Section 23562, and unless the person is ordered to participate in and complete a driving-under-the-influence program under subdivision (b), the court shall impose as a condition of probation that the person, subsequent to the date of the current violation, enroll and participate, for at least 18 months and in a manner satisfactory to the court, in a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as designated by the court. The person shall complete the entire program subsequent to, and shall not be given any credit for program activities completed prior to, the date of the current violation. Any person who has previously completed a 12-month or 18-month program licensed pursuant to Section 11836 of the Health and Safety Code shall not be eligible for referral pursuant to this subdivision unless a 30-month licensed~~

~~driving-under-the-influence program is not available for referral in the county of the person's residence or employment. The program shall provide for persons who cannot afford the program fee pursuant to paragraph (2) of subdivision (b) of Section 11837.4 of the Health and Safety Code in order to enable those persons to participate. No condition of probation required pursuant to this subdivision is a basis for reducing any other probation requirement in this section or Section 23600 or for avoiding the mandatory license revocation provisions of paragraph (5) of subdivision (a) of Section 13352.~~

~~SEC. 8. Section 23550 of the Vehicle Code is amended to read:~~

~~23550. (a) If a person is convicted of a violation of Section 23152 and the offense occurred within seven years of three or more separate violations of Section 23103, as specified in Section 23103.5, or Section 23152 or 23153, or any combination thereof, which resulted in convictions, that person shall be punished by imprisonment in the state prison, or in a county jail for not less than 180 days nor more than one year, and by a fine of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000). The person's privilege to operate a motor vehicle shall be revoked by the department under paragraph (7) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.~~

~~(b) A person convicted of a violation of Section 23152 punishable under this section shall be designated as a habitual traffic offender for a period of three years, subsequent to the conviction. The person shall be advised of this designation pursuant to subdivision (b) of Section 13350.~~

~~SEC. 9. Section 23550.5 of the Vehicle Code is amended to read:~~

~~23550.5. (a) A person is guilty of a public offense, punishable by imprisonment in the state prison or confinement in a county jail for not more than one year and by a fine of not less than one thousand five hundred dollars (\$1,500) nor more than ten thousand dollars (\$10,000) if that person is convicted of a violation of Section 23152 or 23153, and the offense occurred within 10 years of any of the following:~~

~~(1) A prior violation of Section 23152 that was punished as a felony under Section 23550 or this section, or both, or under former Section 23175 or former Section 23175.5, or both.~~

~~(2) A prior violation of Section 23153 that was punished as a felony.~~

~~(3) A prior violation of paragraph (1) of subdivision (e) of Section 192 of the Penal Code that was punished as a felony.~~

~~(b) A person who, having previously been convicted of a violation of Section 191.5 of the Penal Code or a felony violation of paragraph (3) of subdivision (e) of Section 192 of the Penal Code, is subsequently convicted of a violation of Section 23152 or 23153 is guilty of a public offense punishable by imprisonment in the state prison or confinement in a county jail for not more than one year and by a fine of not less than two thousand five hundred dollars (\$2,500) nor more than ten thousand dollars (\$10,000).~~

~~(c) The privilege to operate a motor vehicle of a person convicted of a violation that is punishable under subdivision (a) or (b) shall be revoked by the department under paragraph (7) of subdivision (a) of Section 13352, unless paragraph (6) of subdivision (a) of Section 13352 is also applicable, in which case the privilege shall be revoked under that provision. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.~~

~~(d) A person convicted of a violation of Section 23152 or 23153 that is punishable under this section shall be designated as a habitual traffic offender for a period of three years, subsequent to the conviction. The person shall be advised of this designation under subdivision (b) of Section 13350.~~

~~SEC. 10. Section 23552 of the Vehicle Code is amended to read:~~

~~23552. (a) If the court grants probation to a person punished under Section 23550, in addition to the provisions of Section 23600 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in a county jail for at least 180 days but not more than one year and pay a fine of at least five thousand dollars (\$5,000) but not more than ten thousand dollars (\$10,000). The person's privilege to operate a motor vehicle shall be revoked by the department under paragraph (7) of subdivision (a) of Section~~

1 ~~13352. The court shall require the person to surrender the driver's~~
2 ~~license to the court in accordance with Section 13550.~~

3 ~~(b) In addition to subdivision (a), if the court grants probation~~
4 ~~to a person punished under Section 23550, the court may order as~~
5 ~~a condition of probation that the person participate, for at least 30~~
6 ~~months subsequent to the underlying conviction and in a manner~~
7 ~~satisfactory to the court, in a driving-under-the-influence program~~
8 ~~licensed pursuant to Section 11836 of the Health and Safety Code.~~
9 ~~In lieu of the minimum term of imprisonment in subdivision (a),~~
10 ~~the court shall impose as a condition of probation under this~~
11 ~~subdivision that the person be confined in the county jail for at least~~
12 ~~30 days but not more than one year. The court shall not order the~~
13 ~~treatment prescribed by this subdivision unless the person makes~~
14 ~~a specific request and shows good cause for the order, whether or~~
15 ~~not the person has previously completed a treatment program~~
16 ~~pursuant to paragraph (4) of subdivision (b) of Section 23542 or~~
17 ~~paragraph (4) of subdivision (b) of Section 23562. A person~~
18 ~~ordered to treatment pursuant to this subdivision shall apply to the~~
19 ~~court or to a board of review, as designated by the court, at the~~
20 ~~conclusion of the program to obtain the court's order of~~
21 ~~satisfaction. Only upon the granting of that order of satisfaction by~~
22 ~~the court may the program issue its certificate of successful~~
23 ~~completion and report the completion to the Department of Motor~~
24 ~~Vehicles. A failure to obtain an order of satisfaction at the~~
25 ~~conclusion of the program is a violation of probation. In order to~~
26 ~~enable all required persons to participate, each person shall pay the~~
27 ~~program costs commensurate with the person's ability to pay as~~
28 ~~determined pursuant to Section 11837.4 of the Health and Safety~~
29 ~~Code. No condition of probation required pursuant to this~~
30 ~~subdivision is a basis for reducing any other probation requirement~~
31 ~~in this section or Section 23600 or for avoiding the mandatory~~
32 ~~license revocation provisions of paragraph (7) of subdivision (a)~~
33 ~~of Section 13352.~~

34 ~~(c) In addition to the provisions of Section 23600 and~~
35 ~~subdivision (a), if the court grants probation to a person punished~~
36 ~~under Section 23550 who has not previously completed a~~
37 ~~treatment program pursuant to paragraph (4) of subdivision (b) of~~
38 ~~Section 23542 or paragraph (4) of subdivision (b) of Section~~
39 ~~23562, and unless the person is ordered to participate in, and~~
40 ~~complete, a program under subdivision (b), the court shall impose~~

as a condition of probation that the person, subsequent to the date of the current violation, enroll in and participate, for at least 18 months and in a manner satisfactory to the court, in a driving under the influence program licensed pursuant to Section 11836 of the Health and Safety Code, as designated by the court. The person shall complete the entire program subsequent to, and shall not be given any credit for program activities completed prior to, the date of the current violation. Any person who has previously completed a 12-month or 18-month driving under the influence program licensed pursuant to Section 11836 of the Health and Safety Code shall not be eligible for referral pursuant to this subdivision unless a 30-month driving under the influence program licensed pursuant to Section 11836 of the Health and Safety Code is not available for referral in the county of the person's residence or employment. No condition of probation required pursuant to this subdivision is a basis for reducing any other probation requirement in this section or Section 23600 or for avoiding the mandatory license revocation provisions of paragraph (7) of subdivision (a) of Section 13352.

SEC. 11. Section 23554 of the Vehicle Code is amended to read:

23554. If a person is convicted of a first violation of Section 23153, that person shall be punished by imprisonment in the state prison, or in a county jail for not less than 90 days nor more than one year, and by a fine of not less than seven hundred fifty dollars (\$750) nor more than one thousand five hundred dollars (\$1,500). The person's privilege to operate a motor vehicle shall be suspended by the department under paragraph (2) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

SEC. 12. Section 23556 of the Vehicle Code is amended to read:

23556. (a) If the court grants probation to a person punished under Section 23554, in addition to the provisions of Section 23600 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be confined in the county jail for at least five days but not more than one year and pay a fine of at least seven hundred fifty dollars (\$750) but not more than one thousand five hundred dollars

1 ~~(\$1,500). The person's privilege to operate a motor vehicle shall~~
2 ~~be suspended by the department under paragraph (2) of~~
3 ~~subdivision (a) of Section 13352. The court shall require the~~
4 ~~person to surrender the driver's license to the court in accordance~~
5 ~~with Section 13550.~~

6 ~~(b) (1) In a county where the county alcohol program~~
7 ~~administrator has certified, and the board of supervisors has~~
8 ~~approved, such a program or programs, the court shall also impose~~
9 ~~as a condition of probation that the driver shall participate in, and~~
10 ~~successfully complete, an alcohol and other drug education and~~
11 ~~counseling program, established pursuant to Section 11837.3 of~~
12 ~~the Health and Safety Code, as designated by the court.~~

13 ~~(2) In a county where the board of supervisors has approved~~
14 ~~and the State Department of Alcohol and Drug Programs has~~
15 ~~licensed an alcohol and other drug education and counseling~~
16 ~~program, the court shall also impose as a condition of probation~~
17 ~~that the driver enroll in, participate in, and successfully complete,~~
18 ~~a driving-under-the-influence program licensed under Section~~
19 ~~11836 of the Health and Safety Code, in the driver's county of~~
20 ~~residence or employment, as designated by the court.~~

21 ~~(c) (1) The court shall revoke the person's probation under~~
22 ~~Section 23602, except for good cause shown, for the failure to~~
23 ~~enroll in, participate in, or complete a program specified in~~
24 ~~subdivision (b).~~

25 ~~(2) The court, in establishing reporting requirements, shall~~
26 ~~consult with the county alcohol program administrator. The~~
27 ~~county alcohol program administrator shall coordinate the~~
28 ~~reporting requirements with the department and with the~~
29 ~~Department of Alcohol and Drug Programs. That reporting shall~~
30 ~~ensure that all persons who, after being ordered to attend and~~
31 ~~complete a program, may be identified for either (A) failure to~~
32 ~~enroll in, or failure to successfully complete, the program, or (B)~~
33 ~~successful completion of the program as ordered.~~

34 ~~(d) The court shall advise the person at the time of sentencing~~
35 ~~that the driving privilege may not be restored until the person has~~
36 ~~provided proof satisfactory to the department of successful~~
37 ~~completion of a driving-under-the-influence program licensed~~
38 ~~under Section 11836 of the Health and Safety Code.~~

39 ~~SEC. 13. Section 23560 of the Vehicle Code is amended to~~
40 ~~read:~~

1 ~~23560. — If a person is convicted of a violation of Section 23153~~
2 ~~and the offense occurred within seven years of a separate violation~~
3 ~~of Section 23103, as specified in Section 23103.5, 23152, or~~
4 ~~23153, which resulted in a conviction, that person shall be~~
5 ~~punished by imprisonment in the state prison, or in a county jail~~
6 ~~for not less than 120 days nor more than one year, and by a fine of~~
7 ~~not less than one thousand five hundred dollars (\$1,500) nor more~~
8 ~~than five thousand dollars (\$5,000). The person's privilege to~~
9 ~~operate a motor vehicle shall be revoked by the department under~~
10 ~~paragraph (4) of subdivision (a) of Section 13352. The court shall~~
11 ~~require the person to surrender the driver's license to the court in~~
12 ~~accordance with Section 13550.~~

13 ~~SEC. 14. — Section 23562 of the Vehicle Code is amended to~~
14 ~~read:~~

15 ~~23562. — If the court grants probation to a person punished~~
16 ~~under Section 23560, in addition to the provisions of Section~~
17 ~~23600 and any other terms and conditions imposed by the court,~~
18 ~~the court shall impose as conditions of probation that the person~~
19 ~~be subject to either subdivision (a) or (b), as follows:~~

20 ~~(a) Be confined in the county jail for at least 120 days and pay~~
21 ~~a fine of at least one thousand five hundred dollars (\$1,500), but~~
22 ~~not more than five thousand dollars (\$5,000). The person's~~
23 ~~privilege to operate a motor vehicle shall be revoked by the~~
24 ~~department under paragraph (4) of subdivision (a) of Section~~
25 ~~13352. The court shall require the person to surrender the driver's~~
26 ~~license to the court in accordance with Section 13550.~~

27 ~~(b) All of the following:~~

28 ~~(1) Be confined in the county jail for at least 30 days, but not~~
29 ~~more than one year.~~

30 ~~(2) Pay a fine of at least one thousand five hundred dollars~~
31 ~~(\$1,500), but not more than five thousand dollars (\$5,000).~~

32 ~~(3) The privilege to operate a motor vehicle shall be revoked by~~
33 ~~the department under paragraph (4) of subdivision (a) of Section~~
34 ~~13352. The court shall require the person to surrender the driver's~~
35 ~~license to the court in accordance with Section 13550.~~

36 ~~(4) Either of the following:~~

37 ~~(A) Enroll and participate, for at least 18 months subsequent to~~
38 ~~the date of the underlying violation and in a manner satisfactory~~
39 ~~to the court, in a driving-under-the-influence program licensed~~
40 ~~under Section 11836 of the Health and Safety Code, if available in~~

1 the county of the person's residence or employment, as designated
2 by the court. The person shall complete the entire program
3 subsequent to, and may not be given any credit for program
4 activities completed prior to, the date of the current violation. The
5 program shall provide for persons who cannot afford the program
6 fee pursuant to paragraph (2) of subdivision (b) of Section 11837.4
7 of the Health and Safety Code in order to enable those persons to
8 participate.

9 (B) Enroll and participate, for at least 30 months subsequent to
10 the date of the underlying violation and in a manner satisfactory
11 to the court, in a driving-under-the-influence program licensed
12 under Section 11836 of the Health and Safety Code, if available in
13 the county of the person's residence or employment. The person
14 shall complete the entire program subsequent to, and may not be
15 given any credit for program activities completed prior to, the date
16 of the current violation.

17 (c) The court shall advise the person at the time of sentencing
18 that the driving privilege may not be restored until the person has
19 provided proof satisfactory to the department of successful
20 completion of a driving-under-the-influence program licensed
21 under Section 11836 of the Health and Safety Code.

22 SEC. 15. Section 23566 of the Vehicle Code is amended to
23 read:

24 23566. (a) If a person is convicted of a violation of Section
25 23153 and the offense occurred within seven years of two or more
26 separate violations of Section 23103, as specified in Section
27 23103.5, or Section 23152 or 23153, or any combination of these
28 violations, which resulted in convictions, that person shall be
29 punished by imprisonment in the state prison for a term of two,
30 three, or four years and by a fine of not less than three thousand
31 dollars (\$3,000) nor more than six thousand dollars (\$6,000). The
32 person's privilege to operate a motor vehicle shall be revoked by
33 the department under paragraph (6) of subdivision (a) of Section
34 13352. The court shall require the person to surrender the driver's
35 license to the court in accordance with Section 13550.

36 (b) If a person is convicted of a violation of Section 23153, and
37 the act or neglect proximately causes great bodily injury, as
38 defined in Section 12022.7 of the Penal Code, to a person other
39 than the driver, and the offense occurred within seven years of two
40 or more separate violations of Section 23103, as specified in

~~Section 23103.5, or Section 23152 or 23153, or any combination of these violations, which resulted in convictions, that person shall be punished by imprisonment in the state prison for a term of two, three, or four years and by a fine of not less than three thousand dollars (\$3,000) nor more than six thousand dollars (\$6,000). The person's privilege to operate a motor vehicle shall be revoked by the department under paragraph (6) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.~~

~~(e) (1) If a person is convicted under subdivision (b), and the offense for which the person is convicted occurred within seven years of four or more separate violations of Section 23103, as specified in Section 23103.5, or Section 23152 or 23153, or any combination of these violations, that resulted in convictions, that person shall, in addition and consecutive to the sentences imposed under subdivision (b), be punished by an additional term of imprisonment in the state prison for three years.~~

~~(2) The enhancement allegation provided under paragraph (1) shall be pleaded and proved as provided by law.~~

~~(d) A person convicted of a violation of Section 23153 that is punishable under this section shall be designated as a habitual traffic offender for a period of three years, subsequent to the conviction. The person shall be advised of this designation under subdivision (b) of Section 13350.~~

~~(e) A person confined in state prison under this section shall be ordered by the court to participate in an alcohol or drug program, or both, that is available at the prison during the person's confinement. Completion of an alcohol or drug program under this section does not meet the program completion requirement of paragraph (6) of subdivision (a) of Section 13352, unless the drug or alcohol program is licensed under Section 11836 of the Health and Safety Code, or is a program specified in Section 8001 of the Penal Code.~~

~~SEC. 16. Section 23568 of the Vehicle Code is amended to read:~~

~~23568. (a) If the court grants probation to a person punished under Section 23566, in addition to the provisions of Section 23600 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in the county jail for at least one year, that the person~~

1 pay a fine of at least three thousand dollars (\$3,000) but not more
2 than six thousand dollars (\$6,000), and that the person make
3 restitution or reparation under Section 1203.1 of the Penal Code.
4 The person's privilege to operate a motor vehicle shall be revoked
5 by the department under paragraph (6) of subdivision (a) of
6 Section 13352. The court shall require the person to surrender the
7 driver's license to the court in accordance with Section 13550.

8 (b) In addition to Section 23600 and subdivision (a), if the court
9 grants probation to a person punished under Section 23566, the
10 court shall impose as a condition of probation that the person enroll
11 in and complete, subsequent to the date of the underlying violation
12 and in a manner satisfactory to the court, an 18-month
13 driving-under-the-influence program licensed under Section
14 11836 of the Health and Safety Code or, if available in the county
15 of the person's residence or employment, a 30-month
16 driving-under-the-influence program licensed under Section
17 11836 of the Health and Safety Code, as designated by the court.
18 The person shall complete the entire program subsequent to, and
19 may not be given any credit for program activities completed prior
20 to, the date of the current violation. In lieu of the minimum term
21 of imprisonment in subdivision (a), the court shall impose as a
22 minimum condition of probation under this subdivision that the
23 person be confined in the county jail for at least 30 days but not
24 more than one year. Except as provided in this subdivision, if the
25 court grants probation under this section, the court shall order the
26 treatment prescribed by this subdivision, whether or not the person
27 has previously completed a treatment program under paragraph
28 (4) of subdivision (b) of Section 23542 or paragraph (4) of
29 subdivision (b) of Section 23562. A person ordered to treatment
30 under this subdivision shall apply to the court or to a board of
31 review, as designated by the court, at the conclusion of the program
32 to obtain the court's order of satisfaction. Only upon the granting
33 of that order of satisfaction by the court may the program issue its
34 certificate of successful completion and report the completion to
35 the department. A failure to obtain an order of satisfaction at the
36 conclusion of the program is a violation of probation. In order to
37 enable all required persons to participate, each person shall pay the
38 program costs commensurate with the person's ability to pay as
39 determined under Section 11837.4 of the Health and Safety Code.
40 No condition of probation required under this subdivision is a basis

~~for reducing any other probation requirement in this section or
Section 23600 or for avoiding the mandatory license revocation
provisions of paragraph (6) of subdivision (a) of Section 13352.~~

~~SEC. 17.—~~

SEC. 3. Section 23575 of the Vehicle Code is amended to read:

23575. (a) (1) In addition to any other provisions of law, the court may require that a person convicted of a first offense violation of Section 23152 or 23153 install a certified ignition interlock device on any vehicle that the person owns or operates and prohibit that person from operating a motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device. The court shall give heightened consideration to applying this sanction to first offense violators with 0.15 percent or more, by weight, of alcohol in his or her blood at arrest, or with two or more prior moving traffic violations, or of persons who refused the chemical tests at arrest. If the court orders the ignition interlock device restriction, the term shall be determined by the court for a period not to exceed three years from the date of conviction. The court shall notify the department, as specified in subdivision (a) of Section 1803, of the terms of the restrictions in accordance with subdivision (a) of Section 1804. The department shall place the restriction in the person's records in the department.

(2) The court shall require any person convicted of a violation of Section 14601.2 to install an ignition interlock device on any vehicle that the person owns or operates and shall prohibit the person from operating a motor vehicle unless the vehicle is equipped with a functioning, certified ignition interlock device. The term of the restriction shall be determined by the court for a period not to exceed three years from the date of conviction. The court shall notify the department, as specified in subdivision (a) of Section 1803, of the terms of the restrictions in accordance with subdivision (a) of Section 1804. The department shall place the restriction in the person's records in the department.

(b) The court shall include on the abstract of conviction or violation submitted to the department under Section 1803 or 1816, the requirement and term for the use of a certified ignition interlock device. The records of the department shall reflect mandatory use of the device for the term ordered by the court.

1 (c) The court shall advise the person that installation of an
2 ignition interlock device on a vehicle does not allow the person to
3 drive without a valid driver's license.

4 (d) Any person whose driving privilege is restricted by the
5 court pursuant to this section shall arrange for each vehicle with
6 an ignition interlock device to be serviced by the installer at least
7 once every 60 days in order for the installer to recalibrate and
8 monitor the operation of the device. The installer shall notify the
9 court if the device is removed or indicates that the person has
10 attempted to remove, bypass, or tamper with the device, or if the
11 person fails three or more times to comply with any requirement
12 for the maintenance or calibration of the ignition interlock device.
13 There is no obligation for the installer to notify the court if the
14 person has complied with all of the requirements of this article.

15 (e) The court shall monitor the installation and maintenance of
16 any ignition interlock device restriction ordered pursuant to
17 subdivision (a) or (l). If any person fails to comply with the court
18 order, the court shall give notice of the fact to the department under
19 Section 40509.1.

20 (f) (1) Pursuant to Section 13352, if any person is convicted of
21 a violation of Section 23152 or 23153, and the offense occurred
22 within seven years of one or more separate violations of Section
23 23152 or 23153 that resulted in a conviction, the person may apply
24 to the department for a restricted driver's license under Section
25 13352 that prohibits the person from operating a motor vehicle
26 unless that vehicle is equipped with a functioning ignition
27 interlock device, certified under Section 13386. The restriction
28 shall remain in effect for at least the remaining period of the
29 original suspension or revocation and until all reinstatement
30 requirements in Section 13352 are met.

31 (2) Pursuant to subdivision (g), the department shall
32 immediately terminate the restriction issued under Section 13352
33 and shall immediately suspend or revoke the privilege to operate
34 a motor vehicle of any person who attempts to remove, bypass, or
35 tamper with the device, who has the device removed prior to the
36 termination date of the restriction, or who fails three or more times
37 to comply with any requirement for the maintenance or calibration
38 of the ignition interlock device ordered under Section 13352. The
39 privilege shall remain suspended or revoked for the remaining

1 period of the originating suspension or revocation and until all
2 reinstatement requirements in Section 13352 are met.

3 (g) Any person whose driving privilege is restricted by the
4 department under Section 13352 shall arrange for each vehicle
5 with an ignition interlock device to be serviced by the installer at
6 least once every 60 days in order for the installer to recalibrate the
7 device and monitor the operation of the device. The installer shall
8 notify the department if the device is removed or indicates that the
9 person has attempted to remove, bypass, or tamper with the device,
10 or if the person fails three or more times to comply with any
11 requirement for the maintenance or calibration of the ignition
12 interlock device. There is no obligation on the part of the installer
13 to notify the department or the court if the person has complied
14 with all of the requirements of this section.

15 (h) Nothing in this section permits a person to drive without a
16 valid driver's license.

17 (i) The department shall include information along with the
18 order of suspension or revocation for repeat offenders informing
19 them that after a specified period of suspension or revocation has
20 been completed, the person may either install an ignition interlock
21 device on any vehicle that the person owns or operates or remain
22 with a suspended or revoked driver's license.

23 (j) Pursuant to this section, out-of-state residents who
24 otherwise would qualify for an ignition interlock device restricted
25 license in California shall be prohibited from operating a motor
26 vehicle in California unless that vehicle is equipped with a
27 functioning ignition interlock device. No ignition interlock device
28 is required to be installed on any vehicle owned by the defendant
29 that is not driven in California.

30 (k) If a person has a medical problem that does not permit the
31 person to breathe with sufficient strength to activate the device,
32 then that person shall only have the suspension option.

33 (l) This section does not restrict a court from requiring
34 installation of an ignition interlock device and prohibiting
35 operation of a motor vehicle unless that vehicle is equipped with
36 a functioning, certified ignition interlock device for any persons
37 to whom subdivision (a) or (b) does not apply. The term of the
38 restriction shall be determined by the court for a period not to
39 exceed three years from the date of conviction. The court shall
40 notify the department, as specified in subdivision (a) of Section

1 1803, of the terms of the restrictions in accordance with
2 subdivision (a) of Section 1804. The department shall place the
3 restriction in the person's records in the department.

4 (m) For purposes of this section, "vehicle" does not include a
5 motorcycle until the state certifies an ignition interlock device that
6 can be installed on a motorcycle. Any person subject to an ignition
7 interlock device restriction shall not operate a motorcycle for the
8 duration of the ignition interlock device restriction period.

9 (n) For purposes of this section, "owned" means solely owned
10 or owned in conjunction with another person or legal entity. For
11 purposes of this section, "operates" includes operating vehicles
12 that are not owned by the person subject to this section.

13 (o) For the purposes of this section, bypass includes, but is not
14 limited to, either of the following:

15 (1) Any combination of failing or not taking the ignition
16 interlock device rolling retest three consecutive times.

17 (2) Any incidence of failing or not taking the ignition interlock
18 device rolling retest, when not followed by an incidence of passing
19 the ignition interlock rolling retest prior to turning the vehicle's
20 engine off.

21 ~~SEC. 18.—~~

22 *SEC. 4.* Section 23578 of the Vehicle Code is amended to
23 read:

24 23578. In addition to ~~a~~ any other provision of this code, if ~~any~~
25 a person is convicted of a violation of Section 23152 or 23153, the
26 court shall consider a concentration of alcohol in the person's
27 blood of 0.15 percent or more, by weight, or the refusal of the
28 person to take a chemical test as a special factor that may justify
29 enhancing the penalties in sentencing, in determining whether to
30 grant probation, and, if probation is granted, in determining
31 additional or enhanced terms and conditions of probation.

32 ~~SEC. 19.—~~

33 *SEC. 5.* Section 23587 is added to the Vehicle Code, to read:

34 23587. (a) If a person is convicted of a violation of Section
35 23152 or 23153 and the court determines that the person had a
36 blood-alcohol concentration of 0.15 percent or more, by weight,
37 at arrest, the fine that otherwise would have been imposed under
38 Section 23536, 23538, 23540, 23542, 23546, 23548, 23550,
39 23550.5, 23552, 23554, 23556, 23560, 23562, 23566, or 23568
40 shall be doubled.

~~(b) If a person is convicted of a violation of Section 23153 and the court finds that the person had a blood-alcohol concentration of less than 0.15 percent, by weight, at arrest, and that person is punished under Section 23554 or 23556, 30 percent of the fine imposed shall be distributed under Section 1463.29 of the Penal Code.~~

~~(c) If a person is convicted of a violation of Section 23152 or 23153 and the court finds that the person had a blood-alcohol concentration of less than 0.15 percent, by weight, at arrest, and that person is punished under Section 23540, 23542, 23546, 23548, 23550, 23552, 23560, 23562, 23566, or 23568, 50 percent of the fine imposed shall be distributed under Section 1463.29 of the Penal Code.~~

~~(d) If a person is convicted of a violation of Section 23152 or 23153 and the court finds that the person had a blood-alcohol concentration of 0.15 percent or more, by weight, at arrest, and that person is punished under Section 23536, 23538, 23554, or 23556, 50 percent of the fine imposed shall be distributed under Section 1463.29 of the Penal Code.~~

~~(f) If a person is convicted of a violation of Section 23152 or 23153 and the court finds that the person had a blood-alcohol concentration of 0.15 percent or more, by weight, at arrest, and that person is punished under Section 23540, 23542, 23546, 23548, 23550, 23552, 23560, 23562, 23566, or 23568, 75 percent of the fine imposed shall be distributed under Section 1463.29 of the Penal Code.~~

~~SEC. 20.—~~

~~(b) Fifty percent of the fine imposed under subdivision (a) shall be distributed under Section 1463.29 of the Penal Code.~~

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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